

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 329 be amended to read as follows:

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT to amend the Indiana Code concerning
- 3 pensions and courts.
- 4 Page 1, between the enacting clause and line 1, begin a new
- 5 paragraph and insert:
- 6 "SECTION 1. IC 3-13-6-1, AS AMENDED BY P.L.119-2005,
- 7 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 8 JULY 1, 2008]: Sec. 1. (a) As used in this section, "judge" refers to a
- 9 judge of a circuit, superior, probate, or county court.
- 10 (b) If a judge wants to resign from office, the judge must resign as
- 11 provided in IC 5-8-3.5.
- 12 (c) A vacancy that occurs because of the death of a judge may be
- 13 certified to the governor under IC 5-8-6.
- 14 (d) A vacancy that occurs, other than by resignation or death of a
- 15 judge, shall be certified to the governor by the circuit court clerk of the
- 16 county in which the judge resided.
- 17 (e) A vacancy in the office of judge of a circuit court shall be filled
- 18 by the governor as provided by Article 5, Section 18 of the Constitution
- 19 of the State of Indiana. However, the governor may not fill a vacancy
- 20 that occurs because of the death of a judge until the governor receives
- 21 notice of the death under IC 5-8-6. The person who is appointed holds
- 22 the office until:
- 23 (1) the end of the unexpired term; or
- 24 (2) a successor is elected at the next general election and

qualified;
 whichever occurs first. The person elected at the general election following an appointment to fill the vacancy, upon being qualified, holds office for the six (6) year term prescribed by Article 7, Section 7 of the Constitution of the State of Indiana and until a successor is elected and qualified.

(f) A vacancy in the office of judge of a superior, probate, or county court shall be filled by the governor subject to the following:

(1) IC 33-33-2-39.

(2) IC 33-33-2-43.

(3) IC 33-33-45-38.

~~(4) IC 33-33-71-40.~~

However, the governor may not fill a vacancy that occurs because of the death of a judge until the governor receives notice of the death under IC 5-8-6. The person who is appointed holds office for the remainder of the unexpired term.

SECTION 2. IC 5-8-1-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 19. (a) Under Article 7, Section 13 of the Constitution of the State of Indiana, whenever a circuit, superior, probate, or county court judge or prosecuting attorney has been convicted of corruption or any other high crime, the attorney general shall bring proceedings in the supreme court, on information, in the name of the state, for the removal from office of the judge or prosecuting attorney.

(b) If the judgment is against the defendant, the defendant is removed from office. The governor, the officer, or the entity required to fill a vacancy under IC 3-13-6-2 shall, subject to:

(1) IC 33-33-2-39;

(2) IC 33-33-2-43; **and**

(3) IC 33-33-45-38; **and**

~~(4) IC 33-33-71-40;~~

appoint or select a successor to fill the vacancy in office."

Page 16, between lines 35 and 36, begin a new paragraph and insert: "SECTION 14. IC 33-23-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. "Commission on judicial qualifications" ~~except as used in IC 33-33-71;~~ means the commission described in Article 7, Section 9 of the Constitution of the State of Indiana.

SECTION 15. IC 33-23-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. "Judicial nominating commission", except as used in IC 33-33-2 **and** IC 33-33-45, **and** ~~IC 33-33-71;~~ means the commission described in Article 7, Section 9 of the Constitution of the State of Indiana."

Page 17, between lines 7 and 8, begin a new paragraph and insert: "SECTION 17. IC 33-33-71-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. **(a)** There is

established a superior court in St. Joseph County. The court consists of eight (8) judges.

(b) To be eligible to serve as a judge of the superior court, a person must be, at the time a declaration of candidacy or a petition of nomination under IC 3-8-6 is filed:

(1) a resident of St. Joseph County; and

(2) an attorney who has been admitted to practice law in Indiana for at least five (5) years.

During the term of office, a judge of the superior court must remain a resident of St. Joseph County.

(c) Each judge of the superior court shall be elected for a term of six (6) years that begins January 1 after the year of the judge's election and continues through December 31 in the sixth year. The judge shall hold office for the six (6) year term or until the judge's successor is elected and qualified. A candidate for judge shall run at large for the office of judge of the superior court and not as a candidate for judge of a particular room or division of the court.

(d) Beginning with the primary election held in:

(1) 2010 and every six (6) years thereafter, a political party may nominate not more than three (3) candidates for judge of the superior court; and

(2) 2012 and every six (6) years thereafter, a political party may nominate not more than two (2) candidates for judge of the superior court.

The candidates shall be voted on at the general election. Other candidates may qualify under IC 3-8-6 to be voted on at the general election.

(e) The names of the party candidates nominated and properly certified to the St. Joseph County election board, along with the names of other candidates who have qualified, shall be placed on the ballot at the general election in the form prescribed by IC 3-11-2. Beginning with the:

(1) 2010 general election and every six (6) years thereafter, persons eligible to vote at the general election may vote for five (5) candidates for judge of the superior court; and

(2) 2012 general election and every six (6) years thereafter, persons eligible to vote at the general election may vote for three (3) candidates for judge of the superior court.

(f) The candidates for judge of the superior court receiving the highest number of votes shall be elected to the vacancies. The names of the candidates elected as judges of the superior court shall be certified to the county election board as provided by law."

Page 38, between lines 22 and 23, begin a new paragraph and insert:

"SECTION 41. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2008]: IC 33-33-71-29; IC 33-33-71-30; IC 33-33-71-31; IC 33-33-71-32; IC 33-33-71-33; IC 33-33-71-34; IC 33-33-71-35; IC 33-33-71-36; IC 33-33-71-37; IC 33-33-71-38;

1 IC 33-33-71-39; IC 33-33-71-40; IC 33-33-71-41; IC 33-33-71-42;
 2 IC 33-33-71-43; IC 33-33-71-44; IC 33-33-71-45; IC 33-33-71-46;
 3 IC 33-33-71-47; IC 33-33-71-48; IC 33-33-71-49; IC 33-33-71-50;
 4 IC 33-33-71-51; IC 33-33-71-52; IC 33-33-71-53; IC 33-33-71-54;
 5 IC 33-33-71-55; IC 33-33-71-56; IC 33-33-71-57; IC 33-33-71-58;
 6 IC 33-33-71-59; IC 33-33-71-60; IC 33-33-71-61; IC 33-33-71-62;
 7 IC 33-33-71-63; IC 33-33-71-64; IC 33-33-71-65; IC 33-33-71-66;
 8 IC 33-33-71-67; IC 33-33-71-68; IC 34-46-2-30.4.

9 SECTION 42. [EFFECTIVE JULY 1, 2008] (a) **The terms of office**
 10 **of the two (2) judges of the St. Joseph superior court whose terms**
 11 **expire December 31, 2010, under IC 33-33-71-42 and**
 12 **IC 33-33-71-43, both as repealed by this act, expire December 31,**
 13 **2010.**

14 (b) **The terms of office of the three (3) judges of the St. Joseph**
 15 **superior court:**

16 (1) **who are subject to a retention election to be held at the**
 17 **general election on November 4, 2008; and**

18 (2) **whose terms would have expired December 31, 2014,**
 19 **under IC 33-33-71-42 and IC 33-33-71-43, both as repealed by**
 20 **this act;**

21 **expire December 31, 2010.**

22 (c) **The offices of the five (5) judges whose terms expire**
 23 **December 31, 2010, under subsections (a) and (b) shall be filled**
 24 **under IC 33-33-71-5(e)(1), as amended by this act, at the general**
 25 **election to be held November 2, 2010.**

26 (d) **The terms of office of the three (3) judges of the St. Joseph**
 27 **superior court whose terms would have expired December 31,**
 28 **2012, under IC 33-33-71-42 and IC 33-33-71-43, both as repealed**
 29 **by this act, expire December 31, 2012.**

30 (e) **The offices of the three (3) judges whose terms expire**
 31 **December 31, 2012, under subsection (d) shall be filled under**
 32 **IC 33-33-71-5(e)(2), as amended by this act, at the general election**
 33 **to be held November 6, 2012.**

34 (f) **This SECTION expires January 2, 2013."**

35 Renumber all SECTIONS consecutively.

(Reference is to ESB 329 as printed February 22, 2008.)

Representative Walorski